

### REMARKS

Claims 1 - 17 are presently pending. In the above-identified Office Action, the Examiner rejected the Claims under 35 U.S.C. § 103(a) as being unpatentable over Anderson (U. S. Patent 5,857,156) in view of Bravman *et al.* (U. S. Patent No. 5,393,965). Though not stated as a basis of rejection initially, Matsuura (U. S. Patent 6,075,568) was also relied on in the above noted rejection of the Claims under 35 U.S.C. § 103(a).

For the reasons set forth more fully below, reconsideration, allowance and passage to issue are respectfully requested.

As stated previously, the invention of the subject Application addresses the need in the art for an inexpensive system and method for distributing music, information and other content on physical storage media per the desires of the end user in a legal manner that does not violate the rights of the content providers and/or artists.

In accordance with the invention, program content and data relating thereto is first transmitted to a consumer via a wireless network. In the specific illustrative embodiment, the wireless network is a satellite and terrestrial radio network. The user is provided with a receiver which is capable of receiving the wireless transmission and providing an audio and/or visual output in response thereto. In addition, the receiver is adapted to receive an input from the user by which the user is able to signal an interest in purchasing a selection of music or data being played and/or displayed. In the illustrative embodiment, in response to this signal from the user and a record-ability flag transmitted in response to input from a content provider, an ID signal is stored on a removable media which identifies the selection being played and/or displayed. The ID signal may be a composite signal indicating the time and channel, a signal that identifies a selection by number, or other suitable ID signal. The receiver or the user's home computer may be used to display the title, artist and/or other information based on the user's selections.

The system includes a mechanism for allowing the user to retrieve the desired selection from a second network using the removable media. Several alternatives are provided for the retrieval mechanism. In one embodiment, the retrieval mechanism is a computer, located either in the user's home or in a commercial establishment, through which the user is allowed to access a web site on the World Wide Web or a site on a private distribution hub. In either case, the site provides interface software which translates the ID signal into a human readable identification (e.g., title and artist) of the music or data selected. In an alternative embodiment, the computer is provided in a kiosk accessible to the public.

The user then either downloads the desired selection through the site or places an order for delivery of physical media (e.g., a CD) on which the desired selection is stored.

The invention is set forth in Claims of varying scope of which Claim 1 is illustrative. Claim 1 recites:

1. A system for distributing program content comprising:
  - first means for **transmitting said program content and data relating thereto** using a first network, said first network being a wireless network;
  - second means for receiving said program content and data relating thereto;
  - third means for receiving user input; and
  - fourth means for **storing said data in response to said user input**. (Emphasis added.)

None of the references, including those cited but not applied, teaches, discloses or suggests a system for distributing program content having a means for transmitting the program content and data relating thereto via a wireless network and for storing the data in response to a user input.

In the above-identified Office Action, the Examiner suggested that the invention was obvious in view of the combination of Anderson, Matsuura and Bravman. As discussed previously, Anderson purports to show a personal intercommunication purchase and fulfillment system. The Examiner suggests that Anderson shows the invention as claimed with the exception that Anderson does not disclose means for

storing a signal identifying the data in response to user input or means for disabling the storing means in response to a nonrecord-ability signal.

The Examiner asserts that the shortcomings of Anderson are overcome by the teachings of Matsuura. Matsuura purports to disclose an apparatus for storing URL information transmitted via a vertical blanking interval of a television signal. However, Matsuura does not: 1) teach a storage of **data relating to program content**; 2) provide for a storage of this signal **in response to user input**; nor 3) provide a nonrecord-ability signal therefore. Accordingly, the combination of the teachings of Anderson with Matsuura still fall short of teaching the invention as presently claimed.

In accordance with the teachings of the subject Application, the provision of a selectively enabled capability to record data relating to program content allows a user to identify selections for which the user would like to receive the program content on a storage medium. Clearly, this capability is not provided by the combined teachings of Anderson and Matsuura.

In recognition of an apparent shortcoming in the above-noted references, the Examiner cites Bravman. The Examiner suggests that inasmuch as the flexible merchandise checkout and inventory management system of Bravman includes a keyboard, processor and a "display unit 334 for storage and processing", Bravman overcomes the shortcomings of Anderson and Matsuura. That is, the Examiner suggests that it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the technique of Bravman to the modified system of Matsuura and Anderson "in order to allow the user flexibility to retrieve the desired selection from a second network using the removable media and also to access a web site on the World Wide Web or a site on a private distribution hub".

However, this assertion misses the point. The question is whether or not Bravman overcomes the shortcomings in the combined teachings of Anderson and Matsuura. That is, does Bravman 1) teach a storage of **data relating to program content**; 2) provide for a storage of this signal **in response to user input**; and 3) provide a nonrecord-ability signal therefor?

Clearly, Bravman does not 1) teach a storage of **data relating to program content**; 2) provide for a storage of this signal **in response to user input**; nor 3) provide a nonrecord-ability signal therefor.

In response to Applicant's arguments, the Examiner asserts:

"Matsura discloses an internet Web site address data which is stored in the internet address memory, where the address data is stored corresponding to program and page information indicating character broadcast program and page positions on which object Web site address data is superimposed. The user based on program information can obtain the character broadcast program and page information included in the header of the character broadcast transmitted with the character data (col. 4, lines 33-64; col. 5, line 39-col. 6, line 64)."

However, there is no teaching of means for selectively storing a signal relating to program content in response to user input. Further, there is no teaching with respect to the provision of a nonrecord-ability signal. Hence, even when combined, the teachings of the references still fail to teach, disclose or suggest the invention as presently claimed.

It should also be noted that the Examiner has not shown any motivation for one of ordinary skill in the art to combine the teachings of the primary references at the time of the filing of the present application. That is, the Examiner has shown no motivation for one of ordinary skill in the art to combine the personal intercommunication purchase and fulfillment system of Anderson with the apparatus for storing URL information of Matsuura and with the flexible merchandise checkout and inventory management system of Bravman to design a system for distributing program content as presently claimed.

The remaining references have been considered as well. None of the references, including those cited but not applied, taken alone or in combination, teaches, discloses or suggests the invention as presently claimed.